

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 94-557-T - ORDER NO. 95-960 ✓
MAY 1, 1995

IN RE: Application of Steve Mason DBA)	ORDER
Mason Movers, 35 South Commerce,)	GRANTING
Liberty, SC 29657, to Amend Class)	AMENDMENT
E Certificate of Public and)	
Convenience No. 8673.)	

This matter comes before the Public Service Commission of South Carolina (the Commission) by way of an Application filed by Steve Mason DBA Mason Movers (the Applicant) seeking certain relief in the nature of an amendment to Class E Certificate of Public Convenience and Necessity No. 8673, which currently authorizes motor freight service over irregular routes as follows:

HOUSEHOLD GOODS: Between points and places in Pickens County.

The Applicant seeks to amend the Certificate so that, if amended, it would authorize motor freight service over irregular routes as follows:

HOUSEHOLD GOODS: Between points and places within a 150 mile radius of Liberty, S.C.

Subsequent to the initiation of this proceeding, the Commission Staff instructed the Applicant to cause to be published a prepared Notice of Filing in certain newspapers of general circulation in the State of South Carolina. The Notice of Filing

indicated the nature of the Application and advised all interested parties desiring to participate in the proceeding of the manner and time in which to file the appropriate pleadings. Petitions to Intervene were filed with the Commission by Smith Dray Line & Storage Co., Inc.; Bland Moving & Storage Co., Inc.; Forest Hills Transfer & Storage, Inc.; Carey Moving & Storage, Inc.; Carey Moving & Storage of Greenville, Inc.; and Arrow Moving & Storage, Inc.

A public hearing was held at the offices of the Commission on April 13, 1995, at 10:30 a.m., with the Honorable Rudolph Mitchell, Chairman, presiding. The Applicant was not represented by counsel. None of the Intervenors appeared at the hearing. The Commission Staff was represented by Florence P. Belser, Staff Counsel.

After full consideration of the Application, the testimony presented, and applicable law, the Commission makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. South Carolina Code Annotated Section 58-23-330 (Supp. 1994) provides as follows:

[a]n applicant applying for a certificate or applying to amend a certificate to operate as a motor vehicle common carrier may be approved upon a showing based on criteria established by the Commission that the applicant is fit, willing, and able to perform appropriately the proposed service. If an intervenor shows, or if the Commission determines that the public convenience and necessity is being served already, the Commission may deny the application.

2. 26 S.C. Regs. 103-134(1)(A)(1) (Supp. 1994) provides, in relevant part, that the Commission use the following criteria to

determine whether an applicant is fit, willing, and able to provide the requested service:

- (a) FIT The applicant must demonstrate, or the Commission determine that the applicant's safety rating is satisfactory. This can be obtained from U.S.D.O.T., S.C.D.H.P.T., and PSC safety records. Applicants should also certify that there are no outstanding judgments pending against such applicant. The applicant should further certify that he is familiar with all statutes and regulations, including safety regulations governing for-hire motor carrier operations in South Carolina, and agrees to operate in compliance with these statutes and regulations.
- (b) ABLE The applicant should demonstrate that he has either purchased, leased, or otherwise arranged for obtaining necessary equipment to provide the service for which he is applying. The applicant should also provide evidence in the form of insurance policies or insurance quotes indicating that he is aware of the Commission's insurance requirements and the costs associated therewith.
- (c) WILLING Having met the requirements as to "fit and able," the submitting of the application for operating authority would be sufficient demonstration of the applicant's willingness to provide the authority sought.

3. "The doctrine of [public] convenience and necessity is a relative or elastic theory. The facts in each case must be separately considered, and from those facts, it must be determined whether public convenience and necessity requires a given service to be performed or dispensed with." State v. Carolina Coach Company, 260 N.C. 43, 53, 132 S.E.2d 249, 255 (1963).

4. "In the phrase 'public convenience and necessity,' the word 'necessity' means that which is needful, essential, requisite or conducive to 'public convenience.' "When more convenient and adequate service is offered to the public, it would seem that

necessity requires such public convenience should be served."

Atlantic Greyhound Corporation v. Commonwealth of Virginia, 196 Va. 183, 193, 83 S.E.2d 379, 384 (1954).

5. Mason Movers' Application indicates that it is a sole proprietorship located in Liberty, South Carolina. Steve Mason testified about his operations. Mr. Mason testified that currently he is limited to operating only within Pickens County. Mr. Mason testified that he occasionally has requests for moving jobs which go outside of Pickens County, and that he would like to be able to complete these jobs.

Mr. Mason also stated that the minimum insurance that he must obtain on his equipment has the scope of a 150 mile radius from Liberty, South Carolina. Mr. Mason stated that he would like to be able to amend his Certificate to the 150 mile radius from Liberty, South Carolina, so that he could offset the expense related to his liability limits and the cost of complying with insurance regulations. Mr. Mason stated that he has not had a single damage claim or any type of accident during the time which he has operated. Mr. Mason also stated that to his knowledge, he has never been the subject of a complaint made to the Commission.

According to Mr. Mason, he has the necessary equipment, experience, and financial resources to provide the service for which he seeks authority. Mr. Mason also stated that he is familiar with the rules and regulations governing for-hire motor carriers in South Carolina, and that he has in the past and will in the future abide by these regulations. Mr. Mason testified that he

has received a satisfactory safety rating from the South Carolina Department of Public Safety.

CONCLUSIONS OF LAW

1. The Applicant has demonstrated that it is fit, willing, and able to provide the services for which it seeks authority. Specifically, the Applicant has established that it has no outstanding judgments, that it has the equipment necessary to provide the services for which it seeks authority, and that it has insurance which meet the Commission's requirements. The Applicant has also demonstrated that it has a satisfactory safety rating. The Commission interprets the submission of the Application as the Applicant's demonstration of its willingness to provide Class E services in South Carolina.

2. The Commission finds that the Intervenor has not established that the public convenience and necessity would be adversely effected by the amendment of Mason Movers' Application. Therefore, the Commission concludes that the public convenience and necessity would be better served by allowing Mason Movers to amend its current authority.

3. However, the Commission is concerned with the difficulty of enforcing the 150 mile radius from Liberty, South Carolina. Inspectors on the highway would be in a difficult position to determine what is encompassed by a 150 mile radius from Liberty, South Carolina. The Commission believes that the better practice is to list the counties which are wholly included within the 150 mile radius of Liberty, South Carolina. Therefore, the Commission

determines that Mason Movers' authority should be amended as follows:

HOUSEHOLD GOODS: Between points and places in Abbeville, Aiken, Anderson, Barnwell, Cherokee, Chester, Edgefield, Fairfield, Greenville, Greenwood, Kershaw, Lancaster, Laurens, Lexington, McCormick, Newberry, Oconee, Pickens, Richland, Saluda, Spartanburg, Union, and York Counties.

IT IS THEREFORE ORDERED THAT:

1. Mason Movers' Application to amend its Class E authority to transport Household Goods as defined by Regulation 103-211(14), is approved, and the authority is amended as follows: Between Points and Places in Abbeville, Aiken, Anderson, Barnwell, Cherokee, Chester, Edgefield, Fairfield, Greenville, Greenwood, Kershaw, Lancaster, Laurens, Lexington, McCormick, Newberry, Oconee, Pickens, Richland, Saluda, Spartanburg, Union, and York Counties.

2. Mason Movers shall comply with all applicable statutes and regulations regarding for-hire transportation in South Carolina.

3. Mason Movers shall file the proper license fees and other information required by S.C. Code Ann. §58-23-10 et. seq. (1976), as amended, and by R.103-100 through R.103-280 of the Commission's Rules and Regulations for Motor Carriers, S.C. Code Ann., Vol. 26 (1976), as amended, within sixty (60) days of the date of this Order, or within such additional time as may be authorized by the Commission.

4. Upon compliance with S.C. Code Ann. §58-23-10, et. seq. (1976), as amended, and the applicable provisions of R.103-100

through R.103-280 of the Commission's Rules and Regulations for Motor Carriers, S.C. Code Ann., Vol. 26 (1976), as amended, a certificate shall be issued to the Applicant authorizing the motor carrier services granted herein.

5. Prior to compliance with such requirements and receipt of a certificate, the motor carrier services authorized herein may not be provided.

6. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)